



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



275637

REPLY TO THE ATTENTION OF

C-14J

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

CONFIDENTIAL AND INADMISSIBLE

SETTLEMENT COMMUNICATION

March 20, 2001

David Hirschberg Co.
David Reichert, Esq.
Porter Wright Morris & Arthur
250 east fifth street
Cincinnati, OH 45202-5117

Re: Offer to Settle U.S. EPA Claims Against David Hirschberg
Related to the Skinner Landfill in West Chester, Ohio

Dear Mr. Reichert:

The United States Environmental Protection Agency (U.S. EPA) has contacted you in the past regarding David Hirschberg Co. (Hirschberg) and its activities connected with the Skinner Landfill in West Chester, Ohio (Site). Hirschberg provided U.S. EPA with the Allocator's findings from the ADR proceeding, as well as financial documents related to its ability to reimburse U.S. EPA response costs. After reviewing that information U.S. EPA is prepared to settle its claims against your client. An agreement in principle to settle this matter now will save both the United States and your client the time and expense of preparing for litigation to resolve U.S. EPA's claims for response costs associated with Site.

As you are aware, U.S. EPA has taken response actions at the Site under the authority of the Superfund Program. Hirschberg is responsible for reimbursing the government for the response costs associated with these activities. On January 8, 1997, U.S. EPA sent general notice letters to the parties EPA considered to be PRPs at the Site, inviting them to participate in an ADR proceeding. U.S. EPA convened to allocate responsibility for clean-up costs at the Site. In February 1999, U.S. EPA issued a special notice to initiate discussions to fund the implementation of the Remedial Action and to reimburse U.S. EPA for its response

costs. A Remedial Action Consent Decree to implement the approved design was subsequently negotiated with the majority of the PRPs at the Site. The Remedial Action Consent Decree also resolves the liability of those parties in the contribution action filed by the Plaintiffs in the matter of The DOW Chemical Co., et al. v. Acme Wrecking Co. Inc., et al., (No. C-1-97-0307). Under the terms of the Remedial Action Consent Decree the PRPs are paying money into the Skinner Landfill Special Account that will be used both to implement the Remedial Action and reimburse U.S. EPA for its response costs. For this reason the Remedial Action Consent Decree is a global settlement resolving each settling party's liability with the government and with the Plaintiffs in DOW Chemical v. Acme Wrecking.

Unfortunately, your client did not reach a settlement with the Plaintiffs nor U.S. EPA, and was not included in the Remedial Action Consent Decree. I am prepared to recommend to my management and to the Department of Justice that Hirschberg be included in a second round settlement that would resolve the government's claims for response costs, as well as release Hirschberg from the contribution suit in DOW Chemical v. Acme Wrecking. While the terms of the settlement will have to be agreed upon by all of the parties, I am willing to recommend that the United States settle with Hirschberg for \$19,000. The settlement money would be paid into the Skinner Special Account, and would be available for distribution to help fund the Remedial Action, as well as to reimburse U.S. EPA for response costs. The settlement would be based upon U.S. EPA's model consent decree and like the Remedial Action Consent Decree, it would include contribution protection, broad covenants not to sue, and limited reopeners for specific circumstances. In short, it would be a global settlement resolving all claims against Hirschberg related to the Site.

If Hirschberg is willing to settle this matter for \$19,000, and is willing to agree in principle to a settlement as discussed herein, please respond in writing within seven (7) days of your receipt of this letter. As always, please do not hesitate to contact me should you have any further questions about this matter.

Sincerely,



Craig Melodia
Assistant Regional Counsel

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

David Hirschberg Co.
David Rekichert, Esq
Porter Wright Morris & Arthur
250 East Fifth Street
Cincinnati, OH 45202-5117

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

James B. Young 95

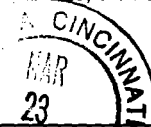
C. Signature

James B. Young☐ Agent
☐ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☒ No

USPS Service Fee

☐ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number (Copy from service label)

7099 3400 0000 9584 9744